



December 6, 2000

Mr. Sim W. Goodall
Police Legal Advisor
City of Arlington
620 West Division Street
P.O. Box 1065
Arlington, Texas 76004-1065

OR2000-4616

Dear Mr. Goodall:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 142636.

On September 26, 2000, the City of Arlington (the "city") received a request for information concerning a DWI charge against the requestor's client. You requested a decision from this office on October 17, 2000. Consequently, the city failed to request a decision within the ten business days required by section 552.301(a) of the Government Code.

Section 552.301 requires a governmental body to release requested information or to request a decision from the attorney general within ten business days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within ten business days of receiving a request for information, the information at issue is presumed to be subject to required disclosure. Gov't Code § 552.302. The governmental body must show a compelling reason to withhold the information to overcome this presumption. *Id.* You have not shown compelling reasons why the information at issue should not be released. Therefore, the information is presumed to be public and must be released.

As a general rule, you must withhold all driver's license numbers, VIN numbers, the license type, and license plate numbers that appear in the report. Gov't Code § 552.130 (excepts

information relating to a Texas driver's license and motor vehicle registration from disclosure). In addition, social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. Here, however, the requestor has a special right of access pursuant to section 552.023 of the Government Code to information that is otherwise private because the requestor is the arrested person's attorney. A person's authorized representative has a special right of access to information relating to the person and protected from public disclosure by laws intended to protect that person's privacy interests. Gov't Code § 552.023. Therefore, you may not withhold the arrested person's section 552.130 information or his social security number. The entire report must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

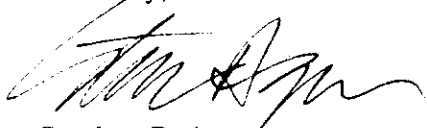
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephen P. Agan', written over a horizontal line.

Stephen P. Agan
Assistant Attorney General
Open Records Division

SPA/seg

Ref: ID# 142636

Encl. Submitted documents

cc: Mr. Robert D. Wilson
Law Offices of Robert D. Wilson, P.C.
1341 West Mockingbird Lane
Suite 718 - East Tower
Dallas, Texas 75247
(w/o enclosures)